

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Ronald David Johnson,

File No. 22-cv-1039 (ECT/ECW)

Plaintiff,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION
IN PART**

B. Eischen, *FPC-Duluth Warden*,

Defendant.

Magistrate Judge Elizabeth Cowan Wright issued a Report and Recommendation on February 22, 2022. ECF No. 13. No party has objected to that Report and Recommendation, and it is therefore reviewed for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). I find no clear error with the R&R's legal conclusions that Petitioner's habeas petition should be denied on mootness and ripeness grounds, and that the action should be dismissed. However, because this dismissal is one for lack of subject matter jurisdiction, the entire action should be dismissed *without* prejudice. *See Jamal v. Chertoff*, No. 06-cv-4932 (DSD/SRN), 2007 WL 2509765, at *1–2 (D. Minn. Aug. 30, 2007). Accordingly, based on the R&R, and on all of the files, records, and proceedings in the above-captioned matter, **IT IS ORDERED THAT:**

1. The Report and Recommendation [ECF No. 13] is **ACCEPTED** in part; and
2. Plaintiff's Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 [ECF No. 1] is **DENIED**;

3. This action is **DISMISSED WITHOUT PREJUDICE.**

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 17, 2023

s/ Eric C. Tostrud

Eric C. Tostrud

United States District Court